

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

UNITED STATES OF AMERICA,

Appellees,

v.

Case: 23-13062-D

DC: 3:21-cr-22-MMH-MCR-1

KRISTOPHER JUSTINBOYER ERVIN,

Appellant.

MOTION TO FILE APPENDIX OUT OF TIME

Pursuant to Local Rule 28-5, Appellant, KRISTOPHER JUSTINBOYER ERVIN, by and through the undersigned counsel, moves for an order granting supplemental briefing, and in support thereof, states as follows:

1. Citing Garland v. Cargill, 602 U.S. 406, 424 (2024), both Appellee, UNITED STATES OF AMERICA, and Appellant, MATTHEW HOOVER, have filed notices of supplemental authority.
2. But the undersigned counsel disputes that the authority submitted by both parties is applicable to this case: Cargill dealt with the definition of “a single function of the trigger” under the National Firearms Act, while the primary issue in this case is the “material alteration” of both the device at issue (Auto Key Card) and the firearms used in this case. *See Ervin’s Brief for Appellant*, Argument III, p.40-46.

WHEREFORE, the undersigned counsel asks this Court to order supplemental briefing in regards to the notices of supplemental authority and requests that this Court award Mr. Ervin any and all further relief to which he is entitled.

Submitted on this 10th day of July 2024.

/s/ Valarie Linnen
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CERTIFICATE OF INTERESTED PERSONS

Appellant, KRISTOPHER JUSTINBOYER ERVIN, by and through the counsel, hereby files this Certificate of Interested Persons:

- 1) BARKSDALE, Patricia D. – U.S. Magistrate Judge
- 2) CALL, Lisa – Assistant Public Defender
- 3) CORRIGAN, Timothy J. – U.S. District Judge
- 4) ERVIN, Kristopher Justinboyer – Defendant / Appellant
- 5) HARRINGTON, Jennifer Michelle – Assistant U.S. Attorney
- 6) HOOVER, Matthew Raymond – Co-Defendant
- 7) HOWARD, Marcia Morales – U.S. District Judge
- 8) KING, Alex – Trial Defense Counsel
- 9) KLINDT, James R. – U.S. Magistrate Judge
- 10) LAROSIERE, Matthew – Appellate Counsel for Mr. Hoover
- 11) LINNEN, Valarie – Appellate Counsel for Mr. Ervin
- 12) MESROBIAN, David B. – Assistant U.S. Attorney
- 13) MONROE, Daniel Scott – Former Defense Counsel
- 14) RICHARDSON, Monte C. – U.S. Magistrate Judge
- 15) SIEKKINAN, Sean – Assistant U.S. Attorney
- 16) TAYLOR, Lisa Cofer – Assistant U.S. Attorney
- 17) TRAN, Mia – Assistant U.S. Attorney

No publicly traded company or corporation has an interest in the outcome of this appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following via electronic case mail delivery on this 10th day of July 2024:

Matthew Larosiere Esq., LarosiereMM@gmail.com

Sean Siekkinen, AUSA, Sean.Siekkinen@usdoj.gov

CERTIFICATE OF TYPEFACE COMPLIANCE

Pursuant to Rule 32(g), this motion complies with the type-volume limitation of Fed.R.App.P. 27(d) because this motion contains 162 words, excluding the parts exempted by Fed.R.App.P. 32(f).

/s/ Valarie Linnen
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